



11 JUL 2006

SIEMENS SCHWEIZ, AG  
245 ALBISRIEDERSTRASSE  
I-44 INTELLECTUAL PROPERTY RAUM  
CH-8047 ZURICH, 08047

In re Application of  
BILGER et al.  
Application No.: 10/561,493  
Filing Date: 03 November 2005  
Attorney's Docket No.: 2002P11311WOUS  
For: DISTRIBUTION OF PRINTER PAPER

DECISION ON  
PETITION  
UNDER 37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of applicant's petition to revive under 37 CFR 1.137(b) filed on 29 June 2006.

On 18 August 2003, applicant filed international application PCT/DE03/02750. The deadline for entry into national stage expired thirty months after the priority date of 06 September 2002 or by midnight on 06 March 2005. Thereafter, the application went abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 03 November 2005, applicant filed a petition under 37 CFR 1.181 requesting that a copy of the application be accepted in lieu of the originally filed application allegedly filed on 25 February 2005. The application was assigned serial no. 10/561,493. A decision dismissing the petition was mailed on 07 June 2006 indicating that applicant had mailed the application papers to a USPTO address that was no longer available as a delivery address as of midnight January 13, 2005.

On 20 June 2006, applicant filed the instant petition to revive which was accompanied by a request for filing a continuation of an international application, accompanied by an Application Data Sheet, which indicated that the application was a continuation of PCT/DE03/02750 filed on 18 August 2003.

### DISCUSSION

The transmittal letter filed on 03 November 2005 did not identify the application as a national stage application being filed under 35 U.S.C. 371. Applicant requests that the application be considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 03 November 2005 will be accepted as a filing under 35 U.S.C. 111(a). Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/DE03/02750 became abandoned as to the United States of America after midnight on 06 March 2005 for failure to pay the basic national fee.

On 29 June 2006, applicant filed a petition under 37 CFR 1.137(b) to revive international application PCT/DE03/02750 as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

International application PCT/DE03/02750 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application 10/561,493.

The specification and claims filed on 03 November 2005 complete the requirements for a filing date under 35 U.S.C. 111(a). Accordingly, the application will be accorded a filing date of 03 November 2005.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/561,493) and the international application (PCT/DE03/02750) designating the United States were copending on 03 November 2005.

### CONCLUSION

Applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to Office of Initial Patent Examination for further processing as an application filed under 35 U.S.C. 111(a), having a filing date of 03 November 2005. The application will then be examined in due course.

  
Cynthia M. Kratz  
Attorney Advisor  
Office PCT Legal Administration

Telephone: (571) 272-3286  
Facsimile: (571) 273-0459